

REMARKS

As a result of this amendment claims 1-14 are now pending. Claims 1-3, 11 have been amended. Claims 12-14 have been added. No new matter has been added to this application by way of amendment.

This case is a continuation of parent application 10/081,826. This preliminary amendment addresses issues in the final rejection of that case.

In case 10/081,826 Claims 1 and 14 had been rejected under 35 USC 103(a) as allegedly being unpatentable over JP 37-4895. This rejection is traversed for all the reasons presented in the prior response, incorporated herein by reference, and the following reasons.

In the Final Rejection, it was indicated that the sole difference between the claims and the reference is that the instant R¹⁵ requires methyl and the reference discloses H.

Applicants respectfully disagree and contend that JP 37-4895 neither teaches nor suggests, alone or in combination with any other prior art, Applicants' novel compounds.

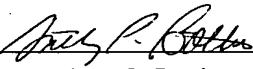
However, solely to further prosecution in the case, enclosed herewith is the Declaration of Frank Himmelsbach. The Declaration presents evidence of unexpected results in activity against DPP-IV observed for the claimed compounds where the R⁴ is amino group substituted by R¹⁵ and R¹⁶ where R¹⁵ is C₁₋₃-alkyl vs. hydrogen. The Declaration accordingly provides a direct comparison of the anti-DPP-IV activity of several N(C₁₋₂-alkyl)(R¹⁶) compounds versus NH-R¹⁶.

In the Table, it can be seen that the compounds of the invention resulted in a significant increase in inhibition. The observed improvement of anti-DPP-IV activity by substitution of N(C₁₋₂alkyl)(R¹⁶) rather than NH-R¹⁶ at that particular position is nowhere disclosed or suggested in the prior art of record, and provides evidence of surprising and unexpected results in rebuttal to any prima facie case of obviousness. The claimed invention is therefore believed to be unobvious from the prior art of record, and accordingly withdrawal of the rejection under 35 USC § 103 is respectfully requested.

In view of the above amendments and remarks, applicants request favorable reconsideration and early allowance of claims 1-14. If the Examiner believes that a telephone discussion would be helpful in expediting allowance of this application, the Examiner is invited to call the undersigned at the below listed telephone number.

Certificate of Mailing Under 37 C.F.R. § 1.8(a)

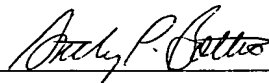
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents
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Dated

Respectfully submitted,



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